



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

MINUTES
MAUI/LANAI ISLAND BURIAL COUNCIL MEETING

DATE: THURSDAY, JULY 27, 2006
TIME: 9:00 A.M.
PLACE: COUNTY OF MAUI
PLANNING DEPARTMENT
KAULANA PAKUI BUILDING 1ST FLOOR
250 S. HIGH STREET
WAILUKU, HI 96793

ATTENDANCE:

Members:

Charles Maxwell, Chair
Dana Naone Hall, Vice-Chair
Leslie Kuloloio
Kema Kanakaole
Pua Paoa
William Frampton
Edward Kaahui
Scott Fisher
Mei Lee Wong

Absent:

Keeaumoku Kapu (excused)

Staff:

Kawika Farm, Clerk Stenographer II
Vince Kanemoto, Deputy Attorney General
Melissa Kirkendall, Maui Archaeologist
Hinano Rodrigues, Cultural Historian
Jenny Pickett, Maui Assistant Archaeologist

Guest:

Deniese Koa	Rachel Koa
Geneva Koa	Lisa Rotunno-Hazuka
Alyse Takayesu	Rowena Dagdag
Gwen Hiraga	Don Fujimoto
Kimokea Kapahulehua	Olivia Silva
Annie Kekona	Gary Kawano
Steve Miller	Darrin Suzuki
Sheri Maxwell	

I. OPENING REMARKS

Maui/Lanai Islands Burial Council Chair (MLIBC), Charles Maxwell called the meeting to order at 9:15 a.m. Kema Kanakaole gave the *pule wehe*.

II. APPROVAL OF MINUTES

June 29, 2006

The fourth line from the bottom of the second paragraph on page 4, Dana Hall said to replace to word “feet” with “foot.” Line six of the third paragraph on page 4, D. Hall said the start of the line should read, “feet by two feet.” The third line of the last paragraph on page 8, D. Hall said delete the “s” after the word “non-burials.” The fourth line of the second paragraph on page 11, D. Hall said to add a “d” after the word “place.”

D. Hall moved and Leslie Kuloloio seconded, “to accept the June 29, 2006 meeting minutes as revised.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

III. BUSINESS

C. Maxwell suggested switching items A and B on the agenda due to the fact that two council members would need to recuse themselves for item A and the MLIBC would lose its’ quorum. C. Maxwell said item A would be addressed later upon the arrival of two more council members.

D. Hall moved and K. Kanakaole seconded, “that items A and B be switched in sequence so item B becomes item A and item A becomes item B on the agenda.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

A. REQUEST FOR LINEAL RECOGNITION OF SKELETAL REMAINS FOUND AT SITE 4142, KAHAIKI ILI, HONOLUA AHUPUAA, LAHAINA DISTRICT, ISLAND OF MAUI, TMK 2-4-2-4:31

Information/Recommendation/Determination: Council Determination to recognize lineal descendency request.

Deniese Koa introduced herself and said she was representing the Koa family. D. Koa said she placed a request [with the State Historic Preservation Division (SHPD)] to be recognized as a lineal descendant to the graves at site 4142. D. Koa said she flew from Oahu to attend the meeting and would answer any questions the council had.

(Jenny Pickett and Melissa Kirkendall arrived at 9:23 a.m.)

D. Hall asked if D. Koa had visited the burials at site 4142. D. Koa said she visited the site the day before (July 26, 2006) and noticed only two of four walls had been constructed around the gravesite. D. Hall asked if the walls were recently constructed.

D. Koa thought the walls had been constructed recently because the gravesite did not have any walls when she had visited the site a year ago. D. Koa said there was supposed to be a pathway for family to access site 4142 but did not see any pathway in the area. D. Hall asked if the cemetery was overgrown to which D. Koa answered yes. D. Koa thought the owner's of the property were to maintain and upkeep site 4142 as well as provide a pathway to the site and construct walls around the site. D. Hall concurred that there were a number of long term preservation measures that were supposed to have been implemented and maintained by the landowner. D. Hall asked if the Brennen family was still the owner of the property. D. Koa said she was not sure, but noticed a *For Sale* sign on the property. D. Koa wanted to know if the construction of the wall would be completed as specified in a previously accepted burial treatment plan (BTP).

Scott Fisher asked if there was a caretaker currently residing on the property. Geneva Koa introduced herself and said she did not know if there was a caretaker for the property. G. Koa said her aunt, Doreen sold the property to the Brennens. G. Koa and D. Koa said they only recently found out about the burial treatment plan and the preservation measures that were meant to protect the gravesite. G. Koa was concerned as to why the long term preservation measures had not been implemented. Both G. and D. Koa wanted the property owner to fulfill the preservation measures of the BTP. D. Koa said she read past MLIBC meeting minutes involving the subject property and what the property owners had said would be done to protect the burials. D. Koa was disappointed that relatively nothing had been fulfilled. D. Koa said the landowner's knew about the gravesite when the property was purchased and wanted the landowner's to take responsibility for site 4142.

D. Hall remembered orange construction fencing surrounding the gravesite when she visited the property several years ago. D. Hall wanted to know if there was anything other than the two walls that demarcated the boundaries of the cemetery. D. Koa said only the stakes the orange construction fence was attached to was still present. D. Koa said the vegetation in the area was heavily overgrown. D. Koa said there were stones around the burials which served as surface markers. D. Koa said the stones which marked the graves had been present from as far back as she could remember. D. Koa said many of the stones that marked the graves were off and scattered and it was very hard to tell how many graves were in the area. D. Koa remembered the stones being placed neatly around the graves. D. Hall thought the stones may need to be put back in place to mark the graves to which D. Koa agreed. D. Koa wanted the site cleaned and mentioned there were broken beer bottles and other debris that littered the area. D. Koa wanted to know why the site has not been maintained and wanted the landowner to take responsibility for the site.

C. Maxwell asked if contact had been made with the landowner informing them about the concerns expressed by G. Koa and D. Koa. D. Koa was unaware if any contact had been made with the landowner. K. Kanakaole wanted to know the approximate length of time the site had gone without any maintenance. D. Koa thought part of the wall was built within a year, but was unsure how long the site went without maintenance.

L. Kuloloio thought there may have been an agreement with the developers of the property to shoulder some of the responsibility of protecting the burials at site 4142. L. Kuloloio was glad D. and G. Koa filed an application to be recognized as lineal descendants. L. Kuloloio thought D. and G. Koa were direct lineal descendants to the burials at site 4142. L. Kuloloio wanted the Koa sisters to know that the process they were going through to be recognized as lineal descendants would also recognize their future children and grandchildren as lineal descendants to the burials at site 4142. L. Kuloloio apologized to the Koa sisters for the lack of maintenance at site 4142. L. Kuloloio thought site 4142 needed immediate attention and felt all other activities pertaining to the property needed to be placed on hold until the preservation measures listed in the BTP were completed. L. Kuloloio suggested SHPD notify the appropriate landowner to help facilitate and ensure the obligations of the BTP were met.

Deputy Attorney General, Vince Kanemoto said a new law was passed which made actions that knowingly violated a mitigation plan punishable by fines of up to \$10,000. V. Kanemoto suggested the council contact SHPD and have the division investigate and follow up on the concerns expressed by the Koa sisters. D. Hall thought new laws were generally effective from the date of enactment forward and wanted to know if the law mentioned by V. Kanemoto had a retroactive clause. V. Kanemoto said property owners still needed to comply with mitigation plans despite having the particular mitigation plan preceding the enactment of the new law. C. Maxwell wanted to know when the law was enacted. V. Kanemoto said the law was enacted during the past legislative session. V. Kanemoto suggested SHPD contact the landowner in writing informing the landowner to comply with the mitigation plan or face possible fines. C. Maxwell wanted to know if the council should make a recommendation or if SHPD would pursue the issue. D. Hall and V. Kanemoto said the council should make a recommendation to SHPD.

Given the current BTP and issues pertaining to site 4142, W. Frampton was curious to know if the council had the ability to find out how many other plans [that were accepted by the MLIBC and SHPD] were not in compliance. W. Frampton wanted to know if the council could attach specific language to all future plans which would require landowners to notify SHPD once all the obligation and preservation measures of a plan were fulfilled or within a year's time from the date a plan was approved. V. Kanemoto said the council could make any recommendations the council wanted on plans presented before their review. W. Frampton also thought the landowner and/or realtor needed to be notified about the preservation measures for site 4142 which have yet to be satisfied. W. Frampton said that if the Brennan family still owned the property, he would be very surprised and eager to find out why the Brennan family did not comply with the BTP.

S. Fisher was glad the Koas attended the meeting and expressed concerns for the burials at site 4142. S. Fisher felt the Koas demonstrated why it was important to have lineal and cultural descendants. D. Hall thought it was good when lineal and cultural descendants took the initiative to monitor sites but said that did not always happen. D. Hall said one of the reasons why the council had asked for language stating "SHPD shall have the authority to conduct periodic site visits" placed in plans was because

SHPD stood in for the sites which had no recognized or active lineal or cultural descendants.

D. Hall wanted to know what corrections needed to be made within the BTP for site 4142. D. Koa said her great grandfather's name needed to reflect his full name from David Koa to David Koanui Kawahine Koa, Senior. D. Koa said her father's sister Lily Punohu Koa is the daughter of David Koa, Junior and Julia Koa. D. Hall asked if Julia Koa was buried at site 4142. D. Koa said Julia Koa was buried on Oahu. D. Koa said her grandfather David Koa, Junior was known as Koaliili and her great grandfather David Koa, Senior was known as Koanui. L. Kuloloio thanked D. Koa and G. Koa for attending the MLIBC meeting and said it was never too late to submit an application to be recognized as a lineal descendant.

D. Hall moved and K. Kanakaole seconded, "based on written genealogical and other information provided by the applicants, Deniese K.L. Koa and Geneva N.S. Koa Carden and their testimony today, the Maui/Lanai Islands Burial Council recognizes Deniese L. K. Koa and Geneva N.S. Koa Carden as direct lineal descendants of David Koanui Kawahine Koa, Senior and Lily Punohu Koa."

VOTE: ALL IN FAVOR. The motion carried unanimously.

D. Hall moved and L. Kuloloio seconded, "that the Maui/Lanai Islands Burial Council strongly recommends the State Historic Preservation Division investigate the non-compliance with and non-completion of, the burial preservation plan for site 4142, TMK: (2) 2-4-2-4-:31, Honolua, Maui, by initiating contact with the landowner and realtor and any other person(s) responsible for the implementation of the short and long term measures included in the burial preservation plan for site 4142. The MLIBC further requests that SHPD inform the responsible parties of a new state law which creates civil and administrative penalties for violations of mitigation plans and the council's desire that the burial preservation plan for site 4142 be completed expeditiously and no later than 60 days from the date of contact with the responsible parties."

VOTE: ALL IN FAVOR. The motion carried unanimously.

D. Hall asked if the house on the subject property had been built. D. Koa said the house had been built in 2002. D. Koa said she and her family always visited the gravesite whenever they came to Maui and noticed the house had been built for about four years. D. Koa said she knew the property was put up for sale but had no contact with her father's side of the family who were selling the property. Mei Lee Wong wanted to know if a recommendation could be made to have some type of time limit that would require the landowner to be in compliance with the mitigation plan. L. Kuloloio wanted to know if the council should request the landowner attend a future meeting to discuss the lack of compliance with the mitigation plan. L. Kuloloio was not sure who the landowner was and who the responsible party was the council needed to work with. C. Maxwell thought some language should be added to the motion to request the owner(s) and the developer attend the next MLIBC meeting because the plan was already four years old. W. Frampton said a fact finding process needed to take place which would

identify the current owner. W. Frampton said whoever the owner was, needed to understand the mitigation plan ran with the property and site 4142 is the responsibility of the landowner. W. Frampton said the owners needed to be made aware of the mitigation plan and that failure to comply with the plan could result in fines. L. Kuloloio thought the owners needed to attend an MLIBC meeting to understand what was going on and to comply with the mitigation plan or face possible penalties.

K. Kanakaole wanted the MLIBC and SHPD to follow through and pursue the issue with the landowner. K. Kanakaole did not want developers and landowners to take the council or the obligations of a mitigation plan lightly.

(Pua Paoa, Edward Kaahui and Hinano Rodrigues arrive at 10:02 a.m.)

D. Hall briefed H. Rodrigues on what had occurred with the current agenda item. H. Rodrigues said SHPD would look into the recommendation made by the council.

**B. BURIAL TREATMENT AND PRESERVATION PLAN FOR SITE 50-50-14-5796-
FEATURE 11 LOCATED AT PARCEL H-1, MALUAKA AHUPUAA, MAKAWAO
DISTRICT, ISLAND OF MAUI, TMK: 2-1-06:56 PORTION**

Determination: Determination on a request to preserve in place burial site.

M. Wong had to recuse because she was employed by the developer of the property.

C. Maxwell had to recuse because he was the cultural consultant for the project.

Lisa Rotunno-Hazuka of Archaeological Services Hawaii (ASH) LLC introduced herself and said she was present to discuss a previously identified burial site. L. Hazuka introduced Don Fujimoto of Keaka LLC. L. Hazuka had a display board and identified the Prince Hotel, a southern cul-de-sac and the project area. L. Hazuka asked the council to turn to page 5 of the burial treatment and preservation plan (BTPP) to amend the fifth line from the bottom of the last paragraph from “after consultation with MLIBC, and excavations” to “after consultation with MLIBC and SHPD, excavations.” L. Hazuka directed the council to page 13 which showed the preservation area. L. Hazuka identified hala trees which were located on the outer edge of a rock wall on figure 6 on page 13. L. Hazuka said the rock wall defined the buffer zone around the burial. L. Hazuka identified the burial platform which measured approximately 15 feet in length by 6 feet in width. L. Hazuka said there were four milo trees, three of which were just inside of the rock wall with one milo tree just outside of the rock wall. L. Hazuka said all four milo trees would have a root barrier. L. Hazuka said naupaka was originally proposed to be landscaped outside of the rock wall but that lauae would be landscaped instead of naupaka.

L. Kuloloio was concerned about the distance the lauhala tree would be from the burial because the roots of hala trees grew high and wide. L. Kuloloio wanted a root barrier placed around the hala trees. D. Fujimoto asked if the council preferred to have the hala tree replaced with other trees. L. Kuloloio said he liked the hala tree and wanted to be sure a root barrier would be in place to prevent the disturbance of other things in the area. S. Fisher said lauae ferns were not indigenous to Hawaii. L. Hazuka asked if the council preferred other vegetation instead of lauae. S. Fisher said lauae made nice

ground cover and has developed some cultural significance. D. Hall said lauae was relatively easy to maintain. S. Fisher said the lauae fern was originally from New Guinea and brought to Maui in 1905. D. Hall asked if the pohinahina would grow at the project area to which S. Fisher answered yes.

L. Hazuka said the preservation area within the rock wall would be left in its natural context. L. Hazuka said page 7 of the BTPP showed other features recorded around the rock platform which included some clearing piles and a surface midden scatter. L. Hazuka said the second paragraph under Maintenance on page 11 reads, "to ensure perpetual protection of this burial site, periodic site inspections by the SHPD and MLIBC may be conducted to verify that the signage, platform and all long-term preservation measures are in place and the site is adequately protected." L. Hazuka said the paragraph was included to help clients and property owners comply with mitigation plans.

L. Kuloloio directed the council's attention to the middle paragraph on page 8 of the BTPP and wanted to know the status of the cultural and/or lineal recognition process for Randy Piltz, Betty Snowden and Maile Luuwai [who all responded to a burial notice placed in the Maui News and the Honolulu Advertiser]. L. Hazuka said former SHPD staff member, Sunny Greer was handling the descent recognition for the three individuals mentioned above and was not sure if S. Greer had forwarded the particular matter to H. Rodrigues. H. Rodrigues said the issue preceded his arrival at SHPD and did not know the status of the descent recognition at the present time. H. Rodrigues said he would check on the issue. L. Kuloloio said R. Piltz, B. Snowden and M. Luuwai were all descendants to the Kukahiko *ohana* from Makena. L. Kuloloio wanted to be sure the recognition process went smoothly and thought R. Piltz, B. Snowden and M. Luuwai were definitely cultural descendants but not lineal descendants. L. Hazuka said none of the individuals who responded to the burial notice had any knowledge of the burial identified or of other burials that may be in the area.

The fourth line of the last paragraph on page 1, D. Hall said to delete the hyphen in the word "re-visited" and to change the words "Statewide Inventory" to lower case. The eighth line of the last paragraph on page 2, D. Hall said to delete the word "to." The eleventh line of the same paragraph, D. Hall said to add a space between "Site 5711" and "Feature 8." The first sentence of the last paragraph on page 8, D. Hall said to correct the word "phalant" to "phalans." The eighth line down under the sub-heading Surface Demarcation, D. Hall said to correct the spelling of the word "descried" to "described." Under the sub-heading Landscaping on page 11, D. Hall said to change the word "Hala" to lower case. D. Hall suggested rewriting the language of item 4, Signage to, "the signage will consist of two pedestals with bronze plaques affixed to the top of the pedestals. One pedestal and plaque will be placed at the entrance to the preservation area, and the second pedestal and plaque will be located along the eastern side of the preservation area. The plaques, measuring 18 inches by 10 inches, will be inscribed with the following:" Under the sub-heading Recordation on page 11, D. Hall said to use the words burial treatment and preservation plan for consistency. The fourth line under the sub-heading Maintenance on page 11, D. Hall said to insert the word "Homeowners" before the word "Association." At the top of page 12, D. Hall said

to insert the section symbol after HAR. D. Hall said to delete the comma in the fourth line on page 12. D. Hall said move HAR before 13 in the fifth line on page 12.

L. Kuloloio moved and W. Frampton seconded, “the Maui/Lanai Islands Burial Council determines that burial site 50-50-14-5706 Feature 11 shall be preserved in place because this burial was found in the context of historic properties and the landowner requested preservation in place.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

L. Kuloloio moved and K. Kanakaole seconded, “that the Maui/Lanai Islands Burial Council recommends approval of the burial treatment and preservation plan for burial site 50-50-14-5706 Feature 11 located at Parcel H-1, TMK:2-1-06:56 portion, Maluaka Ahupuaa, Makawao District as revised [this day] July 27, 2006.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

Kimokea Kapahulehua of Na Kupuna O Maui introduced Patty Nishiyama, Annie Kekona and Olivia Silva and said they all visited the site and supports the council's decisions pertaining to site 50-50-14-5706.

C. Maxwell called a brief recess at 10:30 a.m. C. Maxwell called the meeting back to order at 10:35 a.m.

C. PROCEDURES FOR THE PROPER TREATMENT OF INADVERTENT BURIAL DISCOVERIES

Information/Recommendation: Discussion of procedures for inadvertent burial discoveries, including the role of the burial council.

C. Maxwell said he, D. Hall and L. Kuloloio were all part of Honokahua and helped to bury over 800 [individuals] and over 1400 scattered remains. C. Maxwell said he composed two songs based on his experience at Honokahua. C. Maxwell said he, D. Hall and L. Kuloloio had served on the burial council periodically for the past 16 years. C. Maxwell said he, D. Hall and L. Kuloloio served on an interim council prior to 1990 and were all instrumental in creating the burial councils which existed today. C. Maxwell said insuring the protection of the *kupunas* was the essence of the burial councils. C. Maxwell said that if determinations could not be made based on what was written in the law, felt the [essence of council] had been setback 16 years. C. Maxwell was upset that SHPD Administrator, Melanie Chinen did not attend the MLIBC meeting and submitted a letter in her absence which conveyed authority to H. Rodrigues to speak on M. Chinen's behalf. C. Maxwell said he would invoke the governor's office to correct problems within SHPD. C. Maxwell said he was shocked after reading the minutes of last month's MLIBC meeting and at the attitude of H. Rodrigues. C. Maxwell said he pushed for the hire of H. Rodrigues and had made H. Rodrigues aware that he was coming into SHPD blind. Upon H. Rodrigues hire, C. Maxwell suggested H. Rodrigues listen to the burial council because SHPD lacked experience [and certain members on the MLIBC had 16 years of experience]. C. Maxwell said the council had worked with SHPD archaeologist for Maui, Melissa Kirkendall for many years and never

had a problem. C. Maxwell was upset with the circumstances surrounding the burial discovery at Ameron in which ethnicity was indeterminate. C. Maxwell thought the treatment of the remains of the Ameron discovery was unacceptable. As a Hawaiian, C. Maxwell felt the remains of the *kupunas* were not being given proper treatment.

D. Hall was concerned about receiving a letter from the SHPD administrator in place of her attendance at the MLIBC meeting. D. Hall was concerned because the letter was received only moments prior to the start of the MLIBC meeting. D. Hall wanted to know if M. Chinen made final decisions regarding inadvertent burials to which H. Rodrigues answered yes. D. Hall was concerned because M. Chinen did not have a background in historic preservation or native Hawaiian burials. D. Hall was concerned because despite the lack of experience, M. Chinen has been interpreting and implementing procedures that D. Hall felt interfered with rather than facilitated good decision making on inadvertent burials. D. Hall felt SHPD staff had to do what M. Chinen outlined and that SHPD staff were constrained by certain procedures and hierarchy. D. Hall said the council's concerns and problems were primarily with the SHPD administrator which was why the council had wanted M. Chinen to attend today's MLIBC meeting. D. Hall objected to multiple points brought up in the letter written by M. Chinen.

D. Hall thought M. Chinen had made herself available to attend an MLIBC meeting in August, 2006. H. Rodrigues confirmed what D. Hall had thought and said M. Chinen had requested the council move its scheduled meeting date of Thursday, August 31 to Wednesday, August 30. D. Hall said M. Chinen had a meeting with division architects on August 31 which was why M. Chinen had asked the MLIBC to reschedule its meeting. D. Hall wanted to know why M. Chinen could not reschedule the meeting with the division architects. H. Rodrigues said the meeting with the architects was a workgroup which involved the general public and was normally scheduled on the last Thursday of a month. D. Hall asked if the architectural meeting had ever been rescheduled to which H. Rodrigues said he was not sure.

C. Maxwell said he planned to have a meeting with the governor's office within the next two weeks to discuss problems and concerns the council had with the SHPD administrator. C. Maxwell said the council had clashed with OHA (Office of Hawaiian Affairs) and SHPD in the past. C. Maxwell wanted to know why there was an inactive burial council on the island of Molokai. D. Hall asked the council if there were any objections to rescheduling the next MLIBC meeting to Wednesday, August 30.

L. Kuloloio did not have a problem with rescheduling the next MLIBC meeting. L. Kuloloio thought it was important to have a meeting with M. Chinen and thought the concept of *hooponopono* was a positive way to address the concerns and problems that existed between the council and SHPD. L. Kuloloio thought one of the main cause for problems between the burial council and SHPD was the lack of staff primarily within the culture and history branch to efficiently run the division. L. Kuloloio felt a process needed to be worked out between the burial councils and SHPD that would facilitate solutions when problems were encountered. L. Kuloloio thought SHPD may have some difficulty with making certain determinations and thought SHPD needed to hear the council's input. L. Kuloloio said rules were in place as guidelines for the council and SHPD. L. Kuloloio thought problems between the council and SHPD could be worked

out through *hooponopono*. L. Kuloloio thought the remains discovered at Ameron were native Hawaiian based on the fact that all burials found within the immediate have area all been native Hawaiian.

D. Hall said the letter written by M. Chinen suggests “that just because remains are found in a sand dune complex does not determine [ethnicity].” D. Hall said there has been almost no evidence which suggests habitation from any period of time in the area of Ameron or Hawaiian Cement. D. Hall did not think the area was inhabitable because the sand dunes were severely desiccated, with no water source and unfavorable terrain. D. Hall thought the idea of the remains discovered at Ameron belonging to a modern burial or a homicide victim was highly unlikely. D. Hall felt the letter written by M. Chinen was insulting to the experience of the burial council. D. Hall felt the only institutional memories involved with SHPD were the various council members who have been involved for many years. D. Hall said M. Kirkendall had some experience, but that M. Kirkendall’s experience could not be compared to that of the MLIBC in terms of dealing with burials. In regards to the last sentence of the second paragraph on the second page of the letter written by M. Chinen, D. Hall said the council was concerned about responsibility, not ownership. K. Kanakaole thought M. Chinen was missing the point of *kuleana* the council was trying to express. D. Hall said the burial council’s existence was to assist in the proper treatment and disposition of ancestral *iwi*.

L. Kuloloio said he was serving his third term on the burial council and that each term was a learning experience for him. L. Kuloloio thought the burial council was comprised of knowledgeable individuals culturally sensitive to native Hawaiian *kuleana* and development. L. Kuloloio thought there was a good balance on the council. L. Kuloloio felt the letter written by M. Chinen addressed issues from the position of SHPD. L. Kuloloio thought that because M. Chinen had written a letter instead of attending the MLIBC meeting, deprived him of the chance to voice his opinions directly to the SHPD administrator. L. Kuloloio felt M. Chinen was not working with the council and thought the council, as an advisory commission should be allowed the opportunity to at least vote on how the council wanted treatment of the *iwi* to occur. L. Kuloloio was not hurt by the letter written by M. Chinen. L. Kuloloio said he would be hurt if decisions continued to be made without the input of the council. C. Maxwell was concerned because he thought the burial council had been operating well over the past 16 years. C. Maxwell was concerned because after 16 years a person new to SHPD with no experience was making determinations that to the council, was viewed as the wrong determinations. C. Maxwell reiterated his position on a meeting with the governor’s office on Oahu.

Upon the recommendation of the council at the previous MLIBC meeting, D. Hall said she drafted a letter dated July 11, 2006 in which a key point emphasized that sand dunes have been known to historically and traditionally contain native Hawaiian burials. D. Hall said the point she made was in reference to the first element of Hawaii Administrative Rules §13-300-31. D. Hall said determination of ethnicity only had to be established by reasonable belief. D. Hall said neither reasonable belief nor the association of native Hawaiian burials and sand dunes was addressed in the letter written by M. Chinen. D. Hall wanted to be clear what the procedure for proper treatment on inadvertent burial discoveries was. D. Hall said there were two recent

cases that made her doubt the efficiency of the process SHPD used to deal with inadvertent discoveries. D. Hall said both with the Prueitt property in Waihee and the Ameron burial, a great amount of time passed before a decision was made by SHPD to take some form of action on the remains that were inadvertently discovered. D. Hall said SHPD was not responding in the best of interest of the *iwi* regardless of ethnicity due to the length of time that had passed.

L. Kuloloio said he was very familiar with the area at Ameron and to his knowledge, only knew of Polynesian burials being discovered. L. Kuloloio said there had been no coffin burials or habitation sites in the area Ameron has been sand mining. L. Kuloloio said all the burials found within a mile surrounding Ameron had all been native Hawaiian. L. Kuloloio thought the council needed to meet with M. Chinen to gauge where M. Chinen's mind was and to work out a process to handle inadvertent discoveries.

C. Maxwell acknowledged that while Honokahua is regarded as "ground-zero," prior to the discovery at Honokahua, it was well known that the Waiehu sand dunes which ran through Wailuku contained ancient Hawaiian burials. C. Maxwell thought every island of Hawaii had instances where burials were found in a sand dune complex and could not understand the difficulty with proving ethnicity [of the remains discovered at Ameron].

W. Frampton was disturbed at how SHPD could think ethnicity of the remains discovered at Ameron was anything else other than native Hawaiian. W. Frampton thought there was too much evidence which supported the council's position, given past burial discoveries and the association with native Hawaiian burials and sand dunes. W. Frampton acknowledged the difficulty with finding applicable statutes and laws to solve problems that pertained to Hawaiian culture. W. Frampton thought it would be an eye opening experience for M. Chinen to attend an MLIBC meeting. W. Frampton said the members of the MLIBC put in lots of thought, time and consideration when dealing with issues brought before them and did not want anyone to get the impression that the MLIBC was a rubber stamp commission.

C. Maxwell asked V. Kanemoto if he wanted to comment on what was being discussed. V. Kanemoto said he did not know the history of the Ameron discovery, but thought HAR §13-300-31 (g) set the legal framework for the evaluation of ethnicity of human skeletal remains. C. Maxwell said he read the minutes of last month's MLIBC meeting and thought M. Kirkendall did not have a problem with ethnicity [of the remains discovered at Ameron as being native Hawaiian]. M. Kirkendall was in support of the letter written by the SHPD administrator, but thought the council's input should be included in the consultation process. M. Kirkendall was aware that L. Hazuka of ASH had been given the approval to collect the scattered remains [at Ameron] and conduct further tests. M. Kirkendall thought additional testing by ASH may reveal information which may help establish ethnicity.

D. Hall said the council had particular jurisdiction and *kuleana* when dealing with native Hawaiian burials. D. Hall objected to SHPD's position of having ethnicity of the remains being indeterminate when to D. Hall there was sufficient evidence to reasonably believe ethnicity of the remains were native Hawaiian. V. Kanemoto said D. Hall hit the nail on

the head pertaining to jurisdiction because the council would not have any jurisdiction to make recommendations to SHPD if ethnicity was indeterminate. C. Maxwell reiterated the council's position of all burials found within and immediately surrounding the Ameron sand mining area have all been native Hawaiian. L. Kuloloio believed the remains discovered at Ameron were native Hawaiian. L. Kuloloio said if there were other discoveries or cemeteries of various ethnicities within a half mile to mile from the Ameron discovery, then he would be in support of SHPD's position of ethnicity being indeterminate. Based on the fact that all discoveries in the immediate area surrounding Ameron have all been native Hawaiian, L. Kuloloio had to believe the remains found at Ameron were native Hawaiian. L. Hazuka thought at the last MLIBC meeting it was discussed and determined that ethnicity was native Hawaiian and only from an osteological standpoint, ethnicity was indeterminate. D. Hall also thought M. Kirkendall agreed ethnicity of the remains were native Hawaiian based on the context of the discovery.

D. Hall moved and W. Frampton seconded, "that the Maui/Lanai Islands Burial Council, if necessary, agrees to schedule the next MLIBC meeting in August for Wednesday, August 30 instead of the [scheduled] date of August 31 in order to accommodate Melanie Chinen's schedule so that she may be present at the August 30th meeting."

VOTE: ALL IN FAVOR. The motion carried unanimously.

D. CASE UPDATES / OTHER INADVERTENT DISCOVERIES
Information / Recommendation:

Inadvertent Burial Discovery at Ameron International Sand Mining Project, Wailuku Ahupuaa, Wailuku District, Island of Maui, TMK: 3-8-7: portion 131 Information/Recommendation: Discussion of inadvertent discovery of human remains reported on June 2, 2006.

L. Hazuka of ASH said she was representing Ameron and Maui Lani. L. Hazuka said she was given verbal permission by M. Chinen via a phone conversation about a week prior to today's MLIBC meeting to begin collecting the skeletal remains. L. Hazuka said she received a letter by mail stating SHPD's approval to allow ASH to collect the remains. L. Hazuka said ASH had conducted rakings of the area and were currently in the process of setting up grids in concentrated sections to hand screen for additional remains which may be present. L. Hazuka said a burial inventory has not been done. L. Hazuka said the cranium had been collected.

D. Hall said there were two letters [from SHPD] which L. Hazuka confirmed. D. Hall said she reviewed the letters and confirmed that the letter dated July 21 from SHPD to Jeffrey Pantaleo, the principal investigator of ASH outlined the procedures which ASH normally conducts in sand dune situations. D. Hall requested the MLIBC be sent a copy of letters that pertains to or mentions the council. D. Hall did not think it made sense to send copies of letters to the Cultural Resource Commission and not the MLIBC.

D. Hall moved and L. Kuloloio seconded, “that the Maui/Lanai Islands Burial Council recommends to the State Historic Preservation Division that the council be copied on all correspondence in which burials which may be of native Hawaiian ethnicity are the subject of the letter or where the MLIBC is mentioned in the letter.”

VOTE: ALL IN FAVOR. The motion carried unanimously.

Kaulahau Burial Complex, Site 50-50-05-1064, Kuau, Island of Maui, TMK 2-6-09: 23.

Information/Recommendation: Discussion of letter dated May 12, 2006 to the Historic Preservation Division from the County of Maui, Department of Parks and Recreation.

L. Hazuka of ASH said her firm has been caring for the Kaulahau burial site located near Tavares Bay for the past three years under a contract with the Department of Parks and Recreation. L. Hazuka said Kaulahau was a native Hawaiian burial site which had an eroding shoreline. L. Hazuka thought Parks sent a letter to SHPD in May of 2006 indicating Parks would not be a part of maintaining Kaulahau and would not provide funding for the archaeological cost of maintaining Kaulahau. L. Hazuka said Parks wanted SHPD to maintain the Kaulahau burial site. L. Hazuka said she had called and emailed M. Chinen several times to see what position SHPD would take on the issue. L. Hazuka said ASH has continued to monitor and maintain the site. L. Hazuka said there will come a point where ASH would not continue to monitor and maintain the Kaulahau burial site free of charge.

L. Kuloloio said that during his first term on the burial council, he remembered a lot of recovered in situ burials had been reinterred in an adjoining cemetery *mauka* of the Kaulahau cliff face. L. Kuloloio was aware that there were lots of burials which had been recovered over the years that were currently being stored at ASH and SHPD which needed to be reinterred. L. Kuloloio was concerned about the amount of burials which continued to erode out of the Kaulahau cliff face. L. Kuloloio wanted to know what rule or statute would determine who would care for the burial site. D. Hall thought SHPD would need to care for the burial site. L. Kuloloio was concerned for the future of the Kaulahau burial site and thought M. Chinen needed to be made aware of the issue.

W. Frampton wanted to know the history of ownership with the Kaulahau burial site. L. Hazuka said Alexander and Baldwin (A&B) used to own the property but worked a deal with the county to swap properties. L. Hazuka said the county of Maui owned the land where the Kaulahau burial site is. W. Frampton said it was the county's responsibility to care for the site as landowners. L. Hazuka said the county was under the impression that if there was no active development on the subject property, then the state was responsible for the shoreline. W. Frampton thought even if the state had jurisdiction of the shoreline fronting the Kaulahau cliff face, the fact was that the county still owned the land. W. Frampton thought the county should be treated just as a private landowner which would make the county responsible for the burial site. V. Kanemoto said the state owned up to the high water mark. C. Maxwell wanted a recommendation made to SHPD to determine who the landowner of the burial site was. C. Maxwell thought whoever owned the land needed to care for the burial site. W. Frampton thought that if

the county was the landowner, then the county needed a representative to attend an MLIBC meeting to be made aware of the circumstances surrounding the Kaulahau burial site.

W. Frampton wanted to know if a preservation plan was in place. L. Hazuka said former SHPD staff archaeologist, Theresa Donham wrote a stabilization plan which was never implemented. L. Hazuka said the base of the cliff face was made of clay. L. Hazuka said when the ocean hits the base of the cliff face the clay gets wet, and then dries when the tide recedes. L. Hazuka said when the clay dried it usually cracked and collapsed. L. Hazuka said that when the clay collapsed, the sand above would slide off usually exposing a burial. C. Maxwell said it was wave action which caused the cliff face at the burial site to collapse. V. Kanemoto said he could only speculate but, thought the county owned the base of the cliff. C. Maxwell wanted to know how wave action which was attributed to exposing burials at the Kaulahau burial site pertained to ownership. V. Kanemoto thought there were two separate issues, one being who owned the land and two being who was responsible for the erosions that were caused by wave action. C. Maxwell inquired about a seawall. V. Kanemoto said if a seawall was built, the person to speak with was Sam Lemmo of OCCL (Office of Conservation and Coastal Land). W. Frampton was fairly certain the county owned the Kaulahau property which made the county responsible towards working out a preservation plan. W. Frampton said everyone had to comply with the rules and laws which protected burials including the county. W. Frampton said that if the county was questioning ownership of the cliff face at the Kaulahau burial site, then the county needed to do a certified shoreline process.

L. Kuloloio thought Kaulahau was a very complicated issue because there appeared to be various agencies involved and it was unclear as to who would shoulder the responsibility. L. Kuloloio thought the amount of burials at Kaulahau warranted the involvement of an agency on a federal level to assist the county and state.

L. Hazuka said ASH had about 70 individuals which had been collected over the years. L. Hazuka thought around 60 individuals had been reinterred about three years ago. L. Kuloloio thought around 80 individuals had been reinterred three years ago. C. Maxwell wanted a motion to be made to address the concerns involved with Kaulahau. W. Frampton suggested providing the county of Maui with notification to comply with the rules and laws that pertained to protection of *iwi* at the Kaulahau burial site. W. Frampton thought the county needed to hire an archaeologist to work with SHPD to create a mitigation plan. S. Fisher wanted to know if the council should recommend that a draft burial treatment plan be written. L. Hazuka suggested implementation of the existing stabilization plan. W. Frampton said a blanket assessment for sand bags had been approved throughout the state. W. Frampton said the assessment allowed for "soft measures," such as planting and beach nourishment which provided temporary protection. L. Kuloloio agreed that the county needed to be contacted. L. Kuloloio did not think the stabilization plan was applicable because the plan was meant to be implemented for the Kaulahau burial site four years ago. L. Kuloloio did not think the stabilization plan would work because he felt the cliff face at Kaulahau was eroding and washing away at too quick of a rate to stabilize. L. Kuloloio thought a new plan needed

to be created to address Kaulahau which involved the appropriate county, state and federal agencies.

D. Hall said the county wrote a letter to former Archaeological Branch Chief for SHPD, David Brown informing him that the county was no longer in a position to take responsibility for Kaulahau and was requesting SHPD resume care for the burial site. W. Frampton did not think the county could free itself from the responsibility of being a property owner because if Kaulahau was privately owned, the rules and laws would require the private property owner to provide proper treatment for the burials. W. Frampton thought the county should have done better research before making the deal with A&B to swap properties. W. Frampton felt the county was responsible for the burials at Kaulahau. M. Kirkendall said SHPD had cared for Kaulahau when the property was owned by A&B. D. Hall wanted to know who specifically at the county should be notified about the responsibilities associated with Kaulahau. The council thought the mayor and managing director should be notified. C. Maxwell thought the council should address their concerns with the county first and A&B second. L. Hazuka thought A&B should be sent a copy of the letter that would be written to the county.

W. Frampton moved and D. Hall seconded, “that the Maui/Lanai Islands Burial Council recommends to the State Historic Preservation Division that a letter be written to Mayor Alan Arakawa with copies [of the letter sent] to the managing director, the Maui County Council, the Department of Parks and Recreation and the MLIBC regarding the county’s responsibility to properly protect and maintain the Kaulahau burial site 50-50-05-1064. [The council further recommends that the letter include the concerns discussed at today’s July 27, 2006 MLIBC meeting and that immediate action take place].”

W. Frampton said something needed to happen with protecting Kaulahau and suggested a copy of the photo handed out by L. Hazuka be sent with the letter that would be written.

VOTE: ALL IN FAVOR. The motion carried unanimously.

IV. ANNOUNCEMENTS

D. Hall said there were two recent inadvertent discoveries. The first inadvertent discovery was in the Wailuku district on Lunalilo Street. H. Rodrigues said Dutchy Akana and Dutchy’s wife Michelle bought property to “flip”. H. Rodrigues said *iwi* was discovered during improvement work on the property. H. Rodrigues said SHPD put a stop to all construction activities on the property. H. Rodrigues told the property owners a private archaeological firm needed to be hired to monitor the project and draft a monitoring report. H. Rodrigues said the discovery was identified in a sand dune complex and anticipated more burials would be discovered. Assistant Maui Archaeologist for SHPD, Jenny Pickett said she located the original position of the burial which happened to be in the roots of a Plumeria tree. J. Pickett said the burial was completely disturbed. J. Pickett said she covered the burial with sand and secured a tarp over the burial. D. Hall asked if the location of the burial was believed to be the original interment site to which J. Pickett answered yes. C. Maxwell asked if the age or

sex of the burial was known. J. Pickett was not sure due to the lack of skeletal remains to examine but thought the burial may be a female adult. J. Pickett said she identified a few cultural layers and an existing terrace.

L. Hazuka said there was an inadvertent discovery at the Thompson Ranch in Kula. L. Hazuka said the discovery occurred during the removal of Christmas Berry and other trees. L. Hazuka said there was a natural rock outcrop on the property. L. Hazuka said rocks were dislodged near the rock outcrop when a tree was pulled by heavy machinery. L. Hazuka said that the dislodged rocks revealed a cavity in the rock outcrop which contained a cranium. L. Hazuka said she was contacted by the property owner and L. Hazuka informed H. Rodrigues about the discovery. L. Hazuka said the site was visited by H. Rodrigues, J. Pickett and herself. L. Hazuka said ethnicity was currently not known but that ASH would conduct exploratory testing once an approval was received from SHPD. L. Hazuka said no additional remains were visible other than the cranium. C. Maxwell asked what was done to temporarily protect the site. L. Hazuka said the opening of the cavity was resealed. L. Kuloloio said there was an established *heiau* in the immediate area. L. Kuloloio thought all burials found in the Kula area thus far was either of Polynesian or Chinese descent. L. Hazuka said ASH was working with the lawyer of the property owner and SHPD to permit the operator to continue work on the estate.

L. Kuloloio said all the *iwi* that were recovered from Hamakuapoko had been wrapped with the help of H. Rodrigues and K. Farm and were ready to be reinterred. H. Rodrigues said he has been in contact with Jason Koga of A&B who wanted to meet with two members of the burial council to confirm the offered preservation site met with the council's approval. C. Maxwell suggested L. Kuloloio and D. Hall represent the council to visit the proposed preservation site.

V. ADJOURNMENT

D. Hall moved and W. Frampton seconded, "to adjourn the meeting at 11:54 a.m."

VOTE: ALL IN FAVOR. The motion carried unanimously.

Respectfully Submitted,

Kawika Farm
Clerk Stenographer II
Historic Preservation Division